

**CITY OF LODI  
INFORMAL INFORMATIONAL MEETING  
"SHIRTSLEEVE" SESSION  
CARNEGIE FORUM, 305 WEST PINE STREET  
TUESDAY, MARCH 1, 2005**

An Informal Informational Meeting ("Shirtsleeve" Session) of the Lodi City Council was held Tuesday, March 1, 2005, commencing at 7:03 a.m.

**A. ROLL CALL**

Present: Council Members – Hansen, Hitchcock, Johnson, Mounce, and Mayor Beckman  
Absent: Council Members – None  
Also Present: City Manager King, City Attorney Schwabauer, and City Clerk Blackston

**B. TOPIC(S)**

**B-1 "Review of State Housing Code definition regarding overcrowding"**

Joseph Wood, Community Improvement Manager, explained that regulations regarding housing occupancy and limitations on dwelling units are established in the State Housing Code. Through the Health and Safety Code, each city adopts its Housing Code. In order for a city to be more restrictive than the State Housing Code, it must establish criteria, e.g. topographical, climatic, etc., that would necessitate more stringent requirements. Mr. Wood noted that cities have been overturned when they have tried to establish more restrictive regulations. According to State regulations, a dwelling is required to have at least one room with 120 square feet. Every habitable room beyond that has to have no less than 70 square feet. A 70-square-foot room is adequate for two occupants, and for every occupant beyond that, there must be an additional 50 square feet. According to the formula in the State Housing Code, 17 people could occupy a 1,222-square-foot home. Mr. Wood reported that a common problem is the use of uninhabitable space, such as garages, closets, storage space, backyards, basements, and attics. Associated problems include parking, sanitation, and electrical extensions to outbuildings. Mr. Wood noted that these are issues that Code Enforcement can address. He stated that Code Enforcement has a case load of approximately 650, of which 40% are related to substandard housing and dangerous building issues.

Council Member Hansen suggested that an informational flier be prepared as an educational tool to assist citizens in understanding the regulations.

Council Member Mounce pointed out that the law does not define what the 17 people consist of and noted that a family would not have the same impact on a dwelling unit as 17 adults.

City Attorney Schwabauer reported that there have been efforts to limit housing to families in the context of second residential units built in backyards. In these cases, cities have attempted to restrict the inhabitants to a family member or caregiver and the courts have held that it is unconstitutional.

**PUBLIC COMMENTS:**

- Eileen St. Yves recalled that in 1993 former Housing Secretary Henry Cisneros changed the occupancy standards, which primarily impacted rental housing. Unsuccessful attempts have been made by the state and national apartment associations to get the law changed back to the way it was previously, i.e. a certain number of people per bedroom plus one additional person. Ms. St. Yves commented that she had asked Senator Machado why a tenant who pays taxes, etc. is given fewer square feet than a prisoner. She believed that as the cost of housing continues to rise, more families will join together to buy and rent houses.

In answer to Council Member Johnson, Mr. Wood explained that illegal occupancy of dwelling violations are misdemeanors if pursued criminally. In these types of cases, Code Enforcement would issue a notice to vacate, and if it is adhered to, the process ends. Non-compliance fees are assessed on reoccurring problems. If a repeat violation is found within six months of the last contact, the case picks up where it left off.

In response to Mayor Beckman, Mr. Bartlam agreed that these conditions are found when housing cost is generating the occupancy load. The last apartment complex in Lodi was built in 1988. He stated that the problems being discussed today are caused by mostly unrelated individuals living together because they have no other opportunity.

City Manager King reported that some cities have an annual inspection program that primarily applies to multi-family units, which is paid for through an inspection fee. In this program, apartments are systematically checked for Health and Safety Code and Building Code violations. In the absence of an inspection program, many cities have found that the most cost-effective way to address the same issues are to focus on what is found on the exterior, e.g. illegal construction, property maintenance, and parking issues.

Mr. Bartlam reported that the City's participation with the County in the Abandoned Vehicle Authority resulted in a \$30,000 reimbursement for having towed 150 cars off properties last year. In addition, 150 cars were removed voluntarily by notice.

Council Member Mounce expressed concern about the quality of available apartments.

Mayor Pro Tempore Hitchcock voiced support for sending a letter to State representatives asking that the occupancy standards be changed back to a formula that provides at least a minimum quality of life, to which Council Member Mounce agreed.

Mayor Beckman was opposed to asking the State to change the law unless there was something in place to take care of the people that would be displaced if the occupancy numbers were lowered.

Council Member Hansen was also opposed to sending communication to the State about this matter, as he felt the cause was related to broader issues such as immigration and homelessness in general.

In reply to Mayor Beckman, Mr. Bartlam acknowledged that the City's impact fee program disincentives the building of apartments. Historically, Lodi has allowed new developers to build the type of product they want. In two pending annexations, the City has been clear that developers' projects must adhere to medium- and high-density zoning. He noted that there have been problems in the past with in-fill neighborhoods not wanting to accept higher densities.

Ms. St. Yves noted that funds have been cut for the Housing Authority, which is exacerbating the housing problem for low income residents. In reference to the city of Stockton's recent actions, Ms. St. Yves warned that cities cannot supercede the right of privacy and enter homes without due cause and a warrant. Stockton expects to get \$1.5 million a year from rental owners for inspection fees; however, that will result in the cost getting passed off to renters or building maintenance will suffer.

**C. COMMENTS BY THE PUBLIC ON NON-AGENDA ITEMS**

None.

*Continued March 1, 2005*

**D.     ADJOURNMENT**

No action was taken by the City Council. The meeting was adjourned at 8:13 a.m.

ATTEST:

Susan J. Blackston  
City Clerk



## CITY OF LODI COUNCIL COMMUNICATION

**AGENDA TITLE:** Review of State Housing Code Definition Regarding Overcrowding

**MEETING DATE:** March 1, 2005

**PREPARED BY:** Community Improvement Manager

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**RECOMMENDED ACTION:** Receive a report on current State Housing Code definition regarding overcrowding.

**BACKGROUND INFORMATION:** Occupancy requirements and limitations for dwelling units is a matter addressed through the state's housing laws, adopted pursuant to the Health and Safety Code and recognized as the Uniform Housing Code.

Under Section 503 of the Uniform Housing Code, every dwelling unit is required to have at least one room with a minimum of 120 square feet in floor space. Other habitable rooms are required to have an area no less than 70 square feet. For any room used for sleeping purposes, that 70 square feet of floor area can accommodate two people. Furthermore, the minimum required floor area for a room must be increased by 50 square feet for every additional occupant in excess of the first two. (*See Table A*)

This formula is the basis for establishing occupancy limits for residential dwellings units. Before applying the formula to calculate an occupancy limit, you must be sure that it is applied to habitable space only. Habitable space, as defined by the Housing Code is:

*A space in a building for living, sleeping, eating, or cooking. Bathrooms, toilet rooms, closets, halls, storage or utility spaces and similar areas are not considered habitable spaces.*

While a dwelling unit may officially have only 3 bedrooms, the living room, den, dining room and other "habitable" rooms throughout the dwelling must be included in the calculations of the allowed occupancy level of the dwelling, providing that each additional room used as a "sleeping room" meets the other applicable code requirements for sleeping rooms.

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APPROVED: \_\_\_\_\_

A handwritten signature in dark ink, appearing to read "Blair King", written over a horizontal line.

Blair King, City Manager

TABLE A	
Number of Occupants In Habitable Room	Minimum Required Floor Area Per Room
2	70 square feet
3	120 square feet
4	170 square feet
5	220 square feet
6	270 square feet

To understand these guidelines better, we provide the following example, taken from a home that is currently under plan review.

A 1222 square-foot single-family residence, with the following habitable room dimensions:

Room	Size	# Occupants
Bedroom 1:	11' x 12' = 132 sq. ft.	3
Bedroom 2:	11' x 12' = 132 sq. ft.	3
Mstr Bedrm:	11' x 13' = 143 sq. ft.	3
Dining Room:	10' x 11' = 110 sq. ft.	2
Living Room:	15' x 18' = 270 sq. ft.	6
Total Allowed Occupants:		17

This Example considers that each habitable room meets the requirements applied to sleeping rooms, namely a required emergency egress window or door, smoke detectors and no prohibited appliances, fixtures or conditions.

However, what is encountered in most older homes does not always meet those ideal conditions. For example, having a gas-fired appliance such as a wall heater, which is common in older homes, eliminates that room for consideration or use as a sleeping room. Likewise, if there is not a window or door that meets egress requirements, those rooms cannot be considered legal sleeping rooms, and are not calculated within the occupant load.

Even deducting those rooms from the calculation, the formula is still considered to be very liberal in establishing housing occupancy limits. Considering the actual size of homes throughout Lodi, it is not inconceivable to encounter dwelling units which have a calculated occupant limit of up to 18-20 persons.

Jurisdictions have tried to be more restrictive than what is established through the Uniform Housing Code by either adopting a more conservative formula for calculating the occupancy limit or by re-interpreting the definition of habitable rooms to mean only bedrooms when applied to setting this limit.

The Courts however, have re-established the State's intent to occupy the field of occupancy standards and thereby preempt local regulation in that field unless those local agencies are able to establish an

express finding that there exists a local climactic, geological, or topographical condition, which warrants a more restrictive requirement. (Briseno v. City of Santa Ana 6 Cal.App.4th 1378)

### Conclusion

What this means for the City of Lodi is, while we do not have a more reasonable means of calculating an occupancy limit, we do have the ability to make sure that there are not illegal occupancies of garages, sheds, backyards and other accessory structures. We also have an ability to address certain behavioral issues that are a nuisance to surrounding properties and present health and safety hazards, such as inadequate and improper sanitation, unsafe and improper electrical wiring, vehicles parked on yards and excessive garbage, junk and debris. All of which tend to be by-products of high-occupancy housing.

This issue also means the overcapacity of our oldest sewer and water infrastructure. Consider that what were once parcels with single-family dwellings are now divided into two or more units. Now consider the impact that 15-30 people have on water and sewer systems that were designed to handle only 5-10 people.

In the Court's ruling in the previously cited case of Briseno v. City of Santa Ana, Presiding Justice Sills summed up this issue rather well in his conclusion.

*"The City may be disheartened that we have invalidated its ordinance, but doing so saves us from having a curbside seat at the parade of horrors which would otherwise ensue. Had the ordinance survived our scrutiny, it would criminalize a level of occupant density which the state has determined is safe. This would force larger families out of their dwellings and into communities which do follow the Uniform Housing Code. This could only result in increased homelessness and exacerbate housing shortages statewide. Overcrowding is a serious problem. But a piecemeal solution like that proposed by Santa Ana is not the answer. We are not unmindful of the demand high urban densities place on community services. Nevertheless, we must presume the Legislature balanced the benefits of the statewide standard it adopted against the burdens it might impose on cities such as Santa Ana. Here, state law clearly preempts local regulation."* (Briseno v City of Santa Ana, p.4)

**FUNDING:**               None

  
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Joseph Wood, Manager  
Community Improvement Division